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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

VILLAGE OF HINSDALE, ILLINOIS  
A MUNICIPAL CORPORATION

Petitioner,

-vs-

BNSF RAILWAY COMPANY and ILLINOIS  
DEPARTMENT OF TRANSPORTATION

Respondents.

No. T14-0119

Petition for the construction of  
a new highway-rail grade  
separation structure to replace  
the existing Oak Street  
highway-rail grade crossing of  
the BNSF Railway's tracks,  
AAR/DOT #079 520F, railroad  
milepost 16.44, located in the  
Village of Hinsdale, DuPage County,  
Illinois

Chicago, Illinois  
November 13, 2014

Met pursuant to notice at 11:30 a.m.

BEFORE:

Latrice Kirkland-Montague, Administrative Law Judge.

1 APPEARANCES:

2 KLEIN THORPE and JENKINS LTD, by  
3 MS. MALLORY A. MILLUZZI  
4 20 North Wacker Drive, Suite 1660  
Chicago, Illinois 60606-2903  
(312) 984-6458

5 Appearing on behalf of the Village of  
6 Hinsdale;

7 DALEY MOHAN GROBLE PC, by  
8 MR. ROBERT J. PRENDERGAST  
9 MR. JEFFREY J. SCOLARO  
55 West Monroe Street, Suite 1600  
Chicago, Illinois 60603  
(312) 422-0799

10 Appearing on behalf of BNSF  
11 Railway Company;

12 ILLINOIS DEPARTMENT OF TRANSPORTATION, by  
13 MR. LAWRENCE D. PARRISH  
100 West Randolph Street, Suite 6-600  
Chicago, Illinois 60601  
(312) 793-2965

14 Appearing on behalf of IDOT;

15 ILLINOIS COMMERCE COMMISSION, by  
16 MR. BRIAN VERCROYSSSE  
527 East Capitol Avenue  
17 Springfield, Illinois 62701  
(312) 636-7760

18 Appearing on behalf of Staff of the  
19 Illinois Commerce Commission.

20 ALSO PRESENT:

21 Mr. Daniel Deeter, PE, Village of Hinsdale  
Mr. Robert Davies, PE, SE, HR Green

22 SULLIVAN REPORTING COMPANY, by  
Brad Benjamin, CSR. License No. 084-004805

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I N D E X

<u>Witnesses:</u>	<u>Direct</u>	<u>Cross</u>	By <u>Examiner</u>
Daniel Deeter	7		Ms. Milluzzi
		15	Mr. Scolaro
		17	Mr. Vercruysse
Robert Davies	18		Ms. Milluzzi
		28	Mr. Scolaro
		31	Mr. Vercruysse

E X H I B I T S

<u>Number</u>	<u>For Identification</u>	<u>In Evidence</u>
Group Exhibit 5	35	35
Group Exhibit 6	35	35

1 JUDGE KIRKLAND-MONTAQUE: By the power vested  
2 in me by the State of Illinois and the Illinois  
3 Commerce Commission, I now call Docket No. T14-0119  
4 for hearing. This is in the matter of the Village of  
5 Hinsdale, Petitioner, versus the BNSF Railway Company  
6 and the Illinois Department of Transportation, as  
7 respondents.

8 And the petitioners are requesting  
9 authority to construct a new highway-rail grade  
10 separation structure to replace the existing Oak  
11 Street highway-rail grade crossing of the BNSF  
12 Railway's tracks located in the Village of Hinsdale,  
13 DuPage County, Illinois.

14 May I have appearances, starting with  
15 the Village of Hinsdale.

16 MS. MILLUZZI: Mallory Milluzzi,  
17 M-I-L-L-U-Z-Z-I, with Klein, Thorpe and Jenkins.

18 JUDGE KIRKLAND-MONTAQUE: Can you give us your  
19 address, too.

20 MS. MILLUZZI: Yes. 20 North Wacker Drive,  
21 Suite 1660, Chicago, Illinois.

22 JUDGE KIRKLAND-MONTAQUE: Okay.

1 And, BNSF.

2 MR. PRENDERGAST: Good afternoon, your Honor.  
3 Bob Prendergast, P-R-E-N-D-E-R-G-A-S-T, from the law  
4 firm of Daley Mohan Groble; 55 West Monroe Street,  
5 Suite 1600, Chicago, 60603; phone is (312) 422-0799.  
6 And with me today from our firm is Jeff Scolaro,  
7 S-C-O-L-A-R-O.

8 JUDGE KIRKLAND-MONTAQUE: Okay.

9 And, IDOT.

10 MR. PARRISH: Good afternoon, your Honor.  
11 Lawrence Parrish from the Illinois Department of  
12 Transportation; 100 West Randolph, Suite 6-600,  
13 Chicago, Illinois; (312)793-2965 is my number.

14 JUDGE KIRKLAND-MONTAQUE: Thank you.

15 And, Staff.

16 MR. VERCRUYSSSE: Thank you.

17 Brian Vercruysse, V-, as in  
18 Victor, -E-R-C-R-U-Y-S-S-E, representing Commerce  
19 Commission Staff; phone number, 312-636-7760.

20 JUDGE KIRKLAND-MONTAQUE: Okay. Ms. Milluzzi,  
21 I will give you the floor to present the Petition.

22 MS. MILLUZZI: Great. Thank you, your Honor.

1                   With me today I have a representative  
2   from the Village and from HR Green to present the  
3   petition which -- we wish to reconstruct or replace  
4   the existing bridge that currently is on Oak Street  
5   over the BNSF rail tracks.  It's currently a one-way,  
6   one lane structure --

7           JUDGE KIRKLAND-MONTAQUE:  You can sit.

8           MS. MILLUZZI:  Oh, thanks.  I wasn't sure.

9                   -- one-lane structure.  We wanted to  
10   replace it with two lanes with pedestrian walkways as  
11   well and increase the height and load bearing  
12   capacity to bring it up to code and all the  
13   requirements.

14                   So we're also requesting funds from  
15   the Grade Protection Fund -- yeah, the Grade Crossing  
16   Protection Fund as well.

17           JUDGE KIRKLAND-MONTAQUE:  All right.  Well, why  
18   don't you have -- I'll swear the witnesses in.

19                   Are they both going to --

20           MS. MILLUZZI:  Yes --

21           JUDGE KIRKLAND-MONTAQUE:  -- testify?

22           MS. MILLUZZI:  -- they're both going to

1     testify.

2                                   (Witnesses sworn.)

3             JUDGE KIRKLAND-MONTAQUE:   And you can have them  
4     come sit up here -- actually in the box -- whomever  
5     you want to push to present first.

6             MS. MILLUZZI:   Okay.   Let me just have --

7             JUDGE KIRKLAND-MONTAQUE:   One at a time.

8             MS. MILLUZZI:  -- one at a time, probably.

9                           DANIEL DEETER,  
10     called as a witness, having been first duly sworn,  
11     was examined and testified as follows:

12                           DIRECT EXAMINATION

13                           BY

14                           MS. MILLUZZI:

15             Q     Would you please state your name for the  
16     record.

17             A     My names's Daniel Deeter.

18             Q     And what is your current position?

19             A     I'm the Village engineer for the Village of  
20     Hinsdale; address; 19 East Chicago, Hinsdale,  
21     Illinois 60586.

22             Q     And are you familiar with the petition

1 today?

2 A I am.

3 Q And can you just kind of give us an  
4 overview of what the Village is requesting.

5 A The Village has -- this bridge over the  
6 BNSF Railway and Oak Street is the only  
7 grade-separated crossing in the Village of Hinsdale  
8 and for a number of miles both east and west. It is  
9 a much older bridge. The center-span support member  
10 is actually part of a railroad turnstile originally  
11 built in 1890, is what I'm told, so the rest of the  
12 bridge is a timber bridge.

13 And about six years ago, the Village  
14 had been talking with BNSF. The bridge was -- since  
15 it is an old structure, we started planning on how  
16 to -- what to do about that structure because it  
17 was -- as our engineers were doing their biannual  
18 inspections, we're showing that it was coming to the  
19 end of the life. And so we went through a Phase 1  
20 Environmental Assessment and -- to determine what the  
21 best method was to replace this bridge.

22 And through public meetings and, you



1 know, research by our engineers at HR Green, we came  
2 to the conclusion that replacing the bridge here at  
3 this location was the best solution. As you said,  
4 it's a single-laned bridge, it's got a very steep  
5 profile to the approach -- the approaches of the  
6 first span, and it's also -- BNSF is looking for a  
7 23-foot clearway from the tracks to the bottom of the  
8 bridge -- right now that has 20 feet so it's also  
9 restricting the capacity of what could be carried on  
10 the BNSF line -- so that it benefits both the Village  
11 and BNSF and the region as we carry more capacity on  
12 it.

13 Q And, is there currently pedestrian walkways  
14 on that bridge?

15 A There is one pedestrian walkway on it.  
16 It's right now closed because one of the members --  
17 one of the support members on it has, for lack of a  
18 better word, failed, and so instead of putting money  
19 into repairing it if we're just going to tear it down  
20 anyway and reconstruct a new bridge, we decided not  
21 to keep it open.

22 Q Okay. And would the new bridge include

1 pedestrian walkways on both sides, or would it  
2 maintain on one side?

3 A The new bridge would be two-lane traffic  
4 pedestrian walkways on both sides which carry through  
5 to the sidewalks that are currently on both sides of  
6 Oak Street.

7 Q And as we discussed, there will be some  
8 adjustments to the roadways on the property southwest  
9 of the bridge? Is that at Hillgrove and Oak Street?

10 A At Hillgrove, yes. Right now, Hillgrove  
11 actually connects -- Hillgrove's just north of the  
12 bridge --

13 Q Sorry.

14 A That's okay. Hillgrove currently connects  
15 with Oak Street; but since we're raising the profile  
16 of the road in order to get the 23-foot clearance, we  
17 are creating a cul-de-sac on Hillgrove, and they will  
18 no longer be connected.

19 Q And then, overall, I guess the project  
20 itself -- what is -- would you be the best person to  
21 discuss the different funding allocations or should  
22 HR Green talk about that?

1           MR. ROBERT DAVIES: We were just talking about  
2   it, Dan. I -- it's kind of complicated. So...

3           THE WITNESS: You know, I can discuss that,  
4   sure.

5           MS. MILLUZZI: Okay.

6   BY MS. MILLUZZI:

7           Q     And how is the -- what is the Village's  
8   current plan to address funding the bridge costs?

9           A     We have -- through a variety of different  
10   grants and, you know, local contributions, we are  
11   planning to fully fund the bridge through these  
12   different avenues. I actually didn't bring my notes  
13   up here, so I don't have them all in front of me.

14          Q     Okay.

15          MS. MILLUZZI: May I approach with the  
16   petition?

17          JUDGE KIRKLAND-MONTAQUE: You may.

18          MS. MILLUZZI: Here you go.

19          THE WITNESS: Thanks.

20   BY MS. MILLUZZI:

21          Q     And if you could go to -- turn to, I  
22   believe -- page 3, I believe, goes over kind of the

1 different funding.

2 A Sure. From the -- the Village is  
3 contributing \$825,000 -- looking for -- IDOT has  
4 committed to \$1,865,000; FHWA, \$5,784,000; and the --

5 I forgot what GCPF stands for.

6 Q Great Crossing Protection Fund.

7 A Yes, thank you.

8 -- the Grade Crossing Protection Fund  
9 is \$4,240,000.

10 Q And what is the Village's projection  
11 regarding completion of the bridgework?

12 A We are currently targeting the March  
13 letting with IDOT, and have a fairly aggressive  
14 schedule of substantial completion by the end of 2015  
15 and final completion by June of 2016.

16 Q Okay. And you have reviewed the Verified  
17 Petition and all of its exhibits, correct?

18 A Correct.

19 Q And you're comfortable in your --

20 MS. MILLUZZI: Your Honor, I'd like to submit  
21 the petition and its exhibits into the record.

22 JUDGE KIRKLAND-MONTAQUE: Well, the petition is

1 already part of the record because it --

2 MS. MILLUZZI: Right.

3 JUDGE KIRKLAND-MONTAQUE: The exhibits -- now

4 what do -- do you have a --

5 MS. MILLUZZI: I just didn't know -- to have

6 them -- they were part of our petition which had been

7 circulated. They include the plans; location of the

8 bridge; the plans and renderings for the bridge,

9 which HR Green can testify more to. It also includes

10 the allocation of cost for the Grade Crossing

11 Protection Fund.

12 MR. SCOLARO: Your Honor, we don't necessarily

13 object, but we would just want them to be numbered --

14 MS. MILLUZZI: Yes.

15 MR. SCOLARO: -- and identified for the record.

16 JUDGE KIRKLAND-MONTAQUE: Well, I just want

17 to -- these are the same exhibits that you filed with

18 the exhibits --

19 MS. MILLUZZI: Yes.

20 JUDGE KIRKLAND-MONTAQUE: -- that are on file

21 right now?

22 MS. MILLUZZI: Yes. I just didn't know if they

1     also needed additionally to be submitted into the  
2     record at this hearing.

3             JUDGE KIRKLAND-MONTAQUE:   Not necessarily --

4             MS. MILLUZZI:   Okay.

5             JUDGE KIRKLAND-MONTAQUE:   -- unless someone has  
6     a problem with any of the exhibits that are on file.

7                     Would you rather they be --

8             MR. VERCRUYSSSE:   No.   I had just heard that  
9     there might be updated --

10            MS. MILLUZZI:   They're going to have -- I'm  
11   going to have --

12            MR. VERCRUYSSSE:   -- plans.

13            MS. MILLUZZI:   Yes.   There's going to be an  
14   updated exhibit for parts -- pages of Exhibit 2 that  
15   I'm going to have HR Green talk about and submit as  
16   additional exhibits to the record.

17            JUDGE KIRKLAND-MONTAQUE:   I see.   Okay.   So if  
18   there's something different, then we will admit it  
19   today; but if it's something that was filed with the  
20   petition that's the same, I don't think you need  
21   to --

22            MS. MILLUZZI:   Okay.   Then I'll just make sure

1       that when we get to that part, I'll add those in.

2               MR. SCOLARO:   Okay.

3               MS. MILLUZZI:   I think that's enough,

4   Mr. Deeter.   I'll have HR Green testi- --

5               JUDGE KIRKLAND-MONTAQUE:   Wait a second.

6               MS. MILLUZZI:   Oh, I'm sorry, your Honor.

7               JUDGE KIRKLAND-MONTAQUE:   I'll --

8               MS. MILLUZZI:   Sorry.

9               JUDGE KIRKLAND-MONTAQUE:   -- allow the other

10   parties to cross-examine the witness if they want to.

11   So let's start with BNSF.

12                       Do you have any questions for the

13   witness?

14               MR. SCOLARO:   Just a few, your Honor.   Thank

15   you.

16                       CROSS-EXAMINATION

17                       BY

18                       MR. SCOLARO:

19               Q     Mr. Deeter, you talked about the grants and

20   the contributions and some of the funds which you're

21   getting -- the funding for this project, correct?

22               A     Correct.

1           Q     And with those grants and pursuant to  
2     those grants as well as the other funding that you  
3     talked about, it's my understanding -- and I'm just  
4     looking to see if it's your understanding -- that the  
5     bridge and the project is fully funded at this time;  
6     is that correct?

7           A     That's correct.

8           Q     Okay. And the Village from this point  
9     forward -- after the point of substantial completion,  
10    which you mentioned was in the end of 2015, and then  
11    final completion in 2016, the Village will own and  
12    maintain the bridge for all future updates and upkeep  
13    and maintenance; is that correct?

14          A     That's correct.

15          Q     Okay. And this may be a better question  
16    for HR Green, but would HR Green or would yourself be  
17    the person to talk most conversantly about the  
18    actual -- the specifics on the height of the bridge?

19          A     I --

20               MR. ROBERT DAVIES: It would probably be me  
21    because I was the last one that touched it.

22               MR. SCOLARO: Sure. Okay. Well then, I'll ask



1 HR Green.

2 THE WITNESS: Okay.

3 MR. SCOLARO: That's all we have. Thank you.

4 JUDGE KIRKLAND-MONTAQUE: Mr. Parrish?

5 MR. PARRISH: IDOT has no questions, your

6 Honor.

7 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse?

8 MR. VERCRUYSSSE: Your Honor, just a

9 clarification, again, about the completion.

10 CROSS-EXAMINATION

11 BY

12 MR. VERCRUYSSSE:

13 Q So the bridge will be complete and open to

14 traffic by December 31st, 2015?

15 A That's -- if we can hit our -- that's our

16 intent, yes.

17 Q Is there any problem just noting the

18 overall completion date for the purposes of an order

19 as June 30th, 2016?

20 A No.

21 Q Thank you.

22 MR. VERCRUYSSSE: No further questions, your

1 Honor.

2 JUDGE KIRKLAND-MONTAQUE: Okay. You may be  
3 excused.

4 ROBERT DAVIES,  
5 called as a witness, having been first duly sworn,  
6 was examined and testified as follows:

7 DIRECT EXAMINATION

8 BY

9 MS. MILLUZZI:

10 Q Will you please state your name for the  
11 record.

12 A Robert Davies.

13 Q And where do you currently work?

14 A I work for HR Green --

15 Q Okay.

16 A -- in our offices in McHenry. The address  
17 there is 420 North Front Street.

18 Q And in what way is HR Green associated with  
19 the Oak Street Bridge Reconstruction Project?

20 A We're the consulting engineer for this  
21 phase of the design. So the roadway really -- the  
22 full set of plan preparation is what we are handling.

1           Q     And did you also prepare renderings of what  
2     the bridge will look like after the completion?

3           A     Yes, we did.

4           Q     To present -- we're going to label  
5     exhibits --

6           MS. MILLUZZI:   Make sure that I'm labeling them  
7     correctly.

8                     Group Exhibit 5, your Honor, which was  
9     circulated to everyone a week ago.   I will pass out  
10    copies as well.

11   BY MS. MILLUZZI:

12          Q     Take a look at these for me, please.

13          A     Okay.

14          Q     And are these renderings that your company  
15    created as part of the Oak Street Bridge  
16    Reconstruction Project?

17          A     Yeah.   I guess if you want to be more  
18    exact, one of our subconsultants created them; but  
19    they're part of our team.   So, yes.

20          Q     And can you please kind of describe what  
21    these renderings depict and a little about the -- why  
22    these were created?

1           A     This project included a number of community  
2     meetings for community input.  Not all bridge  
3     replacement projects require all of these renderings,  
4     but in this case it was important to have the  
5     community engaged.

6                     I don't know, do I need to have a  
7     walk-through here?  What you got, basically, is  
8     before photographs and after renderings.

9           Q     And is it -- yeah, I mean, is it your  
10    understanding that the completion of the bridge will  
11    fairly and accurately reflect what is shown in the  
12    renderings?

13          A     Yes.  Actually, they're showing the new  
14    rail -- they're showing it a little higher, although  
15    you can't really tell from here, and the roadway  
16    wider.

17          Q     And then --

18          A     Those are all important features of the  
19    design.

20          Q     And do the pictures on the left of the  
21    before and after view fairly and accurately depict  
22    the current bridge?

1           A     Yes.

2           Q     Okay.

3           MS. MILLUZZI:  And, your Honor, I'd like to

4     submit these into the record -- this Group

5     Exhibit 5 -- as a depiction of the renderings of

6     the -- of how the project will --

7           MR. SCOLARO:  No objection.

8           JUDGE KIRKLAND-MONTAQUE:  Any objection?

9           MR. PARRISH:  Without objection.

10          MS. MILLUZZI:  Okay.

11     BY MS. MILLUZZI:

12          Q     Can you please just give us a little bit of

13     overview --

14          JUDGE KIRKLAND-MONTAQUE:  I'm sorry.

15                         Staff?

16          MR. VERCruysse:  No objections.

17          MS. MILLUZZI:  Sorry, your Honor.  I thought I

18     heard him --

19          MR. VERCruysse:  I did.  Sorry.

20          MS. MILLUZZI:  -- I might have just --

21          JUDGE KIRKLAND-MONTAQUE:  The Village of

22     Hinsdale's Group Exhibit 5 will be admitted.

1 BY MS. MILLUZZI:

2 Q Can you speak a little, Mr. Davies, as to  
3 the overall design and structure of the reconstructed  
4 bridge.

5 A Well, this bridge has some federal and  
6 state money; therefore, it has to meet the current  
7 federal requirements as far as roadway width, so it's  
8 going to be two lanes now.

9 For continuity, there's sidewalks on  
10 both sides as you've mentioned. We are exceeding  
11 ICC's requirement for vertical clearance and meeting  
12 BNSF's requirement for vertical clearance.

13 Q And what is ICC's requirement for vertical  
14 clearance?

15 A ICC is 23 feet.

16 Q Okay. And what is the bridge going to be  
17 constructed at?

18 A 23 foot 4. And --

19 Q Okay. And you said that was -- was that  
20 per the request of BNSF?

21 A Yeah, and that's, I believe, one of their  
22 engineering standards. And, in fact, the revised

1 exhibits shows that we're defining a little bit in  
2 more detail what exactly that means.

3 Q Okay. And I'm going to get to that in just  
4 one second once I find the original exhibits.

5 I'm showing original plans, which is  
6 part of Group Exhibit -- I mean part of Exhibit 2,  
7 submitted with the petition.

8 A Uh-huh.

9 Q And do you see at the bottom that it says  
10 Sheet No. SB-01 of SB-26 sheets?

11 A Uh-huh.

12 Q Okay.

13 JUDGE KIRKLAND-MONTAQUE: Would you answer  
14 "yes" or "no," please.

15 THE WITNESS: Yes. I'm sorry.

16 BY MS. MILLUZZI:

17 Q And are you familiar with these pages?

18 A Yes.

19 Q Can you give me kind of an overview of what  
20 they depict.

21 A The first sheet is more commonly called a  
22 General Plan and Elevation sheet and it

1 provides, really, the external parts of the design,  
2 or how we interface with everybody else. It doesn't  
3 tell you how to build a bridge, but it does tell  
4 everybody else what they're going to get with the  
5 bridge.

6 I don't know if that's -- probably the  
7 quickest way to summarize it.

8 Q Okay.

9 A The second sheet --

10 Q Which is SB-02 on the bottom?

11 A Correct.

12 And when this was submitted this was  
13 still under development. This sheet now has more  
14 information on it. It includes some of the general  
15 notes that are part of the design and includes the  
16 index of sheets for the full structural set.

17 Q Okay. And you were mentioning that now  
18 includes -- I'm showing you what we have marked as  
19 Group Exhibit 6.

20 Can you please take a look at these  
21 and tell me what these depict.

22 A The same thing, except on the second sheet



1 we have more detail.

2 Q Would you please describe what the  
3 additional detail is.

4 A We show 23 foot 3 1/4 on the original  
5 submittal, and that's at 8 feet away from the  
6 centerline of Track No. 3. In the process of  
7 reviewing our drawings that -- BNSF asked for a  
8 little bit more detail on that because they were  
9 looking for 23 foot, 4, according to their original,  
10 I guess you call it the Construction Maintenance  
11 Agreement.

12 So we provided more detail about that  
13 clearance envelope, and my understanding is this is  
14 agreeable. We essentially just have a little clip  
15 that's taken out of that. It's a little difficult to  
16 explain, but the track in that location is on a skew.

17 Q Uh-huh.

18 A It's going uphill. The bridge is on a  
19 vertical curve. At 6 feet away from center line of  
20 track, we do have the 23 foot 4, and we have it over  
21 all the other tracks.

22 Q And would you say that those --

1           A     That's what we're showing on here.

2           Q     -- exhibits marked as Group Exhibit 6 are  
3     the most up-to-date and accurate plans regarding that  
4     height and would replace the ones originally  
5     submitted in Exhibit 2?

6           A     Correct.  Yes.

7           Q     Is there anything additional that has  
8     changed on those 2 pages from the original pages  
9     submitted with the petition?

10          A     On page 1, we simply added a note that  
11     referred to the detailed clearance diagrams on the  
12     next sheet.

13          Q     Okay.

14          A     Let's see -- got the vertical profile.  
15                 Other than some notes that refer to  
16     the rest of the drawing set and the bill of  
17     materials, there isn't anything that's changed on the  
18     second sheet other than that -- the clearance  
19     diagrams, that is.

20          Q     The clearance diagrams.

21                 Are there any other changes to the  
22     plans that were submitted as part of Exhibit 2 that

1     have changed since the filing of the petition other  
2     than --

3             A     That included these two?

4             Q     Yes. The additional -- beyond these  
5     changes that we just went through.

6             A     I see some notes that have been moved  
7     around, but not changed. You know, it's normal as  
8     you develop a set of plans to move things around.

9             Q     Right.

10            A     I'm trying to see if we added any  
11   information here.

12                    I see one drafting error that needs to  
13   be fixed, but that's -- that was fixed.

14            Q     Okay.

15            A     Otherwise, no.

16            Q     All right.

17            MS. MILLUZZI: Your Honor, I'd like to submit  
18   this Group Exhibit 6 into the record and have them  
19   replace the previously marked sheets, SB-01 and SB-02  
20   of Exhibit 2.

21            JUDGE KIRKLAND-MONTAQUE: Any objections?

22            MR. SCOLARO: No objection.

1           MR. VERCRUYSSSE:  No objection.

2           MR. PARRISH:  No objection.

3           JUDGE KIRKLAND-MONTAQUE:  Okay.  Petitioner's

4   Group Exhibit 6 is admitted in place of the existing

5   Exhibit 2.

6                       Are you done with the witness?

7           MS. MILLUZZI:  I am done, yes.

8           JUDGE KIRKLAND-MONTAQUE:  Mr. --

9           MR. SCOLARO:  Yes.  Thank you, your Honor.

10          JUDGE KIRKLAND-MONTAQUE:  -- Scolaro.  You have

11   -- Scolaro --

12          MS. MILLUZZI:  How do you pronounce --

13          MR. SCOLARO:  Scolaro.

14          JUDGE KIRKLAND-MONTAQUE:  Scolaro.

15                       Do you have any questions for the

16   witness?

17          MR. SCOLARO:  Just a few.  Thank you, Judge.

18                       CROSS-EXAMINATION

19                       BY

20                       MR. SCOLARO:

21          Q     Sir, just for my general understanding, so

22   the project is going to be performed and constructed

1 in accordance with the plans and the updated exhibits  
2 that you just talked about with Counsel, correct?

3 A That's correct.

4 Q And those plans and exhibits represent the  
5 most updated versions that we currently have for  
6 those plans and renderings; is that correct?

7 A That is correct, yes.

8 Q And with respect to the substituted SB-01  
9 and SB-02, which was entered into evidence as Group  
10 Exhibit 6, those particular documents are also the  
11 most current and updated versions of those particular  
12 plans, correct?

13 A That's correct, yes.

14 Q Okay. You had referenced an agreement  
15 between the Village and BNSF, correct?

16 A Yes.

17 Q Okay.

18 MR. SCOLARO: Dan, I think your office actually  
19 sent that to us.

20 BY MR. SCOLARO:

21 Q Do you have any specific understanding of  
22 that agreement or do you just have a general

1 knowledge of its existence?

2 A I just have a general knowledge of it. I  
3 have a copy of it. There is a lot of legal  
4 terminology in there that --

5 Q Sure.

6 A -- I'm probably not really qualified to --

7 Q General speaking, did you understand that  
8 pursuant to that agreement, BNSF was going to bill  
9 the Village of Hinsdale for flagger services and  
10 other such expenses related to the project?

11 A I don't even recall seeing that in there --

12 Q Okay.

13 A -- so I guess I've got to beg off of that.  
14 Sorry.

15 Q That's fine.

16 MR. SCOLARO: I have nothing else, Judge.

17 JUDGE KIRKLAND-MONTAQUE: Okay. IDOT?

18 MR. PARRISH: IDOT has no questions.

19 JUDGE KIRKLAND-MONTAQUE: Mr. Vercruysse?

20 MR. VERCRUYSSSE: Your Honor, just to confirm.  
21  
22

1 CROSS-EXAMINATION

2 BY

3 MR. VERCROYSSSE:

4 Q Mr. Davies, the agreement is signed with

5 BNSF and the Village; is that your understanding?

6 A Yeah, that actually -- before Phase 1 was

7 started, before we were involved, I think this was

8 part of the process of the village taking ownership

9 of the bridge.

10 MR. ROBERT DAVIES: Is that accurate, Dan?

11 MR. DANIEL DEETER: Yes, it is.

12 MR. VERCROYSEE: Thank you.

13 No further questions, your Honor.

14 JUDGE KIRKLAND-MONTAQUE: Thank you.

15 You may be excused.

16 THE WITNESS: Thank you.

17 JUDGE KIRKLAND-MONTAQUE: Is there anything

18 else you wish to present today, Ms. Milluzzi?

19 MS. MILLUZZI: No, your Honor, there is not.

20 JUDGE KIRKLAND-MONTAQUE: Okay.

21 Mr. Scolaro?

22 MR. SCOLARO: No, your Honor. And just for the

1 record, so the Group Exhibit 5 and the Group  
2 Exhibit 6 were the two additional exhibits for today?

3 JUDGE KIRKLAND-MONTAQUE: Correct.

4 MS. MILLUZZI: Yes.

5 MR. SCOLARO: That's all I have, Judge.

6 JUDGE KIRKLAND-MONTAQUE: Anything else from  
7 BNSF?

8 MR. PRENDERGAST: Are we okay with the order?  
9 I don't know if --

10 MS. MILLUZZI: I haven't gone through all of  
11 the -- I'm fine with the changes you made. I haven't  
12 gone through --

13 MR. PRENDERGAST: Okay.

14 MS. MILLUZZI: -- all the changes that Staff  
15 made, which I was going to take a look at after this,  
16 but I'm fine -- I assume I will be fine with all of  
17 the changes.

18 Though, there is -- as stated before  
19 that there is an Agreed Order that has been  
20 circulating --

21 JUDGE KIRKLAND-MONTAQUE: Okay.

22 MS. MILLUZZI: -- among the parties.



1 JUDGE KIRKLAND-MONTAQUE: Did you have anything  
2 to say?

3 MR. VERCRUYSSSE: Yes, your Honor.

4 I'd just like to approach Staff's  
5 position because we have had different coordination  
6 with the Village and its consultant.

7 Staff concurs with the assistance from  
8 the Grade Crossing Protection Fund in the amount of  
9 \$4,240,000. And it's Staff's understanding that this  
10 funding will be used toward the construction costs  
11 associated with the bridge. We had previously  
12 identified to the Village's consultant certain items  
13 that weren't eligible. That was decorative elements,  
14 pavers for sidewalks, certain lighting and other  
15 elements that we usually don't pay for. So  
16 otherwise, everything else is in order and Staff  
17 supports the project.

18 Thank you.

19 JUDGE KIRKLAND-MONTAQUE: Okay. And just for  
20 the record, Mr. Parrish, can you give me IDOT's --

21 MR. PARRISH: Yes, your Honor. The Department  
22 supports the petition and the project and agrees that

1 the relief sought in the petition should be approved.

2 JUDGE KIRKLAND-MONTAQUE: Okay. Sounds good.

3 All right. Well, I think we can mark  
4 the record heard and taken.

5 MR. SCOLARO: Does your Honor want us -- do you  
6 want BNSF to also --

7 JUDGE KIRKLAND-MONTAQUE: Oh. I'm sorry. I  
8 thought it was agreed that --

9 MR. SCOLARO: Right. No, Judge, and it  
10 is -- there has been an agreed order and BNSF  
11 supports the petition and the agreed order that  
12 relates to the project as well as the agreement that  
13 they've obviously entered into with the Village  
14 preceding this Phase 1 of the project.

15 JUDGE KIRKLAND-MONTAQUE: All right.  
16 Thank you. I apologize for cutting you short.

17 So at this point what should happen --  
18 I'm going to mark it heard and taken. And present  
19 the Commission or me with a copy of -- a Word copy of  
20 the Agreed Order when it is finalized. And if it's  
21 sometime soon, it will probably be on the  
22 December 10th bench session.

1                   So that's it. We're done for today.  
2                   Thank you.  
3                   (Group Exhibits Nos. 5 and 6  
4                   were marked for identification  
5                   and admitted into evidence.)  
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7                   HEARD AND TAKEN.  
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